



## Internal Memo

April 23, 2020

TO: Mayor and City Council

FROM: Mark C. Meyers, City Administrator *MCM*

SUBJECT: General Information Packet

Attached are general items of information you may find interesting. If you have any questions or comments regarding the information, please contact me.

MCM/th  
Attachments



## Internal Memo

April 23, 2020

TO: Mayor and City Council

FROM: Mark C. Meyers, City Administrator *MEM*

SUBJECT: Update on New Businesses

At Tuesday night's council meeting a question was raised regarding whether staff has heard how Norton Shores businesses are doing during the pandemic. While I responded that I haven't heard from existing businesses I would look into whether or not new businesses had delayed or changed plans. City Planner Ted Woodcock provided me with information on several projects with recently submitted site plans and the outlook is positive:

- Blue Photon recently underwent an engineering change and have revised portions of their site plan. Changes are not significant in nature (shifting drives mostly) and they are close to receiving final site plan approval.
- 3<sup>rd</sup> Stall Properties storage units on Grand Haven Road will receive final site plan approval today.
- Earthtronics applied for a building permit, however, moderate changes to their site plan have been made. The changes mostly deal with the Fire Department and Water/Sewer Division and the company is working to address those items. While a building permit has not been issued, the company is working with staff to move forward.
- Plane Watch Food Truck Park owner Bill Cooper is working with his engineering and design consultant on comments made by staff. The project is close to final site plan approval.

Additionally, I will contact Muskegon Area First to get a sense of how our Norton Shores, as well as Muskegon area, businesses are doing during this crisis.

/ss

**From:** Inside 208 <donotreply@wordpress.com>  
**Sent:** Thursday, April 23, 2020 9:29 AM  
**To:** Mark Meyers  
**Subject:** [New post] US Treasury Releases Guidance on Eligible Uses for CARES Act Funding

Chris Hackbarth posted: "Late Wednesday night, the National League of Cities federal advocacy team received word from the US Treasury that the long-awaited guidance on the eligible uses for the \$150 billion Coronavirus Relief Fund, included in the larger CARES Act stimulus packag"

## New post on Inside 208



### [US Treasury Releases Guidance on Eligible Uses for CARES Act Funding](#) by [Chris Hackbarth](#)

Late Wednesday night, the [National League of Cities](#) federal advocacy team received word from the US Treasury that the [long-awaited guidance on the eligible uses for the \\$150 billion Coronavirus Relief Fund](#), included in the larger CARES Act stimulus package, had been released.

This federal guidance is critical for determining how states and local governments will be able to utilize this important tranche of funding. Michigan was allocated approximately \$3.87 billion of this relief fund and [the Michigan Municipal League has been advocating for the State of Michigan to dedicate](#) a portion of the state's allocation to cover eligible local government costs related to the COVID-19 pandemic.

According to the NLC staff review of this new guidance, here are the top takeaways:

- A state **can** transfer payments to local governments provided the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d).
- Governments do have to return unused funds to the Department of the Treasury if they are not used by December 30, 2020.
- Funds may be used to respond directly to the emergency **as well as** respond to second-order effects of the emergency, such as by providing economic support to those suffering from unemployment or business interruptions due to COVID-19-related business closures.
- The statute says that an expenditure must be "necessary." Treasury interpreted this term to mean reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.
- Funds **may not** be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Many uses of funds are allowed, but **revenue replacement is not one.**

- The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. The "most recently approved" budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency.
  
- Treasury provides a long, nonexclusive list of examples of eligible expenditures.
  
- - Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID19 public health emergency.
  - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
  - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
  - Expenses for public safety measures undertaken in response to COVID-19.
  
- 
  
- 
  
- Nonexclusive examples of *ineligible* expenditures:
  - Expenses for the State share of Medicaid.
  - Damages covered by insurance.
  - Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.
  - Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
  - Reimbursement to donors for donated items or services.
  - Workforce bonuses other than hazard pay or overtime.
  - Severance pay.
  - Legal settlements.

The MML continues to work with our partners at NLC to advocate for direct federal aid to all local units of government and to provide flexibility in the funding to cover revenue shortfalls related to the abrupt

shutdown of the economy. While the current interim stimulus bill being adopted this week in Congress did not include these provisions, we are encouraged by House and Senate Democratic leaders who remain committed to pursuing state and local funding within a broader fourth stimulus bill, expected to be negotiated over the next month.

While the President signaled support for additional state and local support, [Senate Majority Leader McConnell called for pushing the "pause button" for state and local funding](#). "I think this whole business of additional assistance for state and local governments need[s] to be thoroughly evaluated." McConnell went on to condition any further aid to state and local governments on making sure it's COVID-19-related. McConnell said that he will examine not only "if we do state and local," but added he would also oversee how state and local governments will spend funds. Speaking with the media on Wednesday, McConnell said "We're not interested in solving their pension problems for them," he told Fox's Bill Hemmer. "We're not interested in rescuing them from bad decisions they've made in the past, we're not going to let them take advantage of this pandemic to solve a lot of problems that they created themselves themselves and bad decisions in the past."

League members are urged to continue contacting their Member of Congress to support direct aid to local governments and refute the Senate Majority Leader's comments.

*Chris Hackbarth is the League's director of state & federal affairs. He can be reached at 517-908-0304 and [chackbarth@mml.org](mailto:chackbarth@mml.org).*

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[Chris Hackbarth](#) | April 23, 2020 at 9:26 am | URL: <https://wp.me/p3wSLH-1To>

[Comment](#) [See all comments](#)

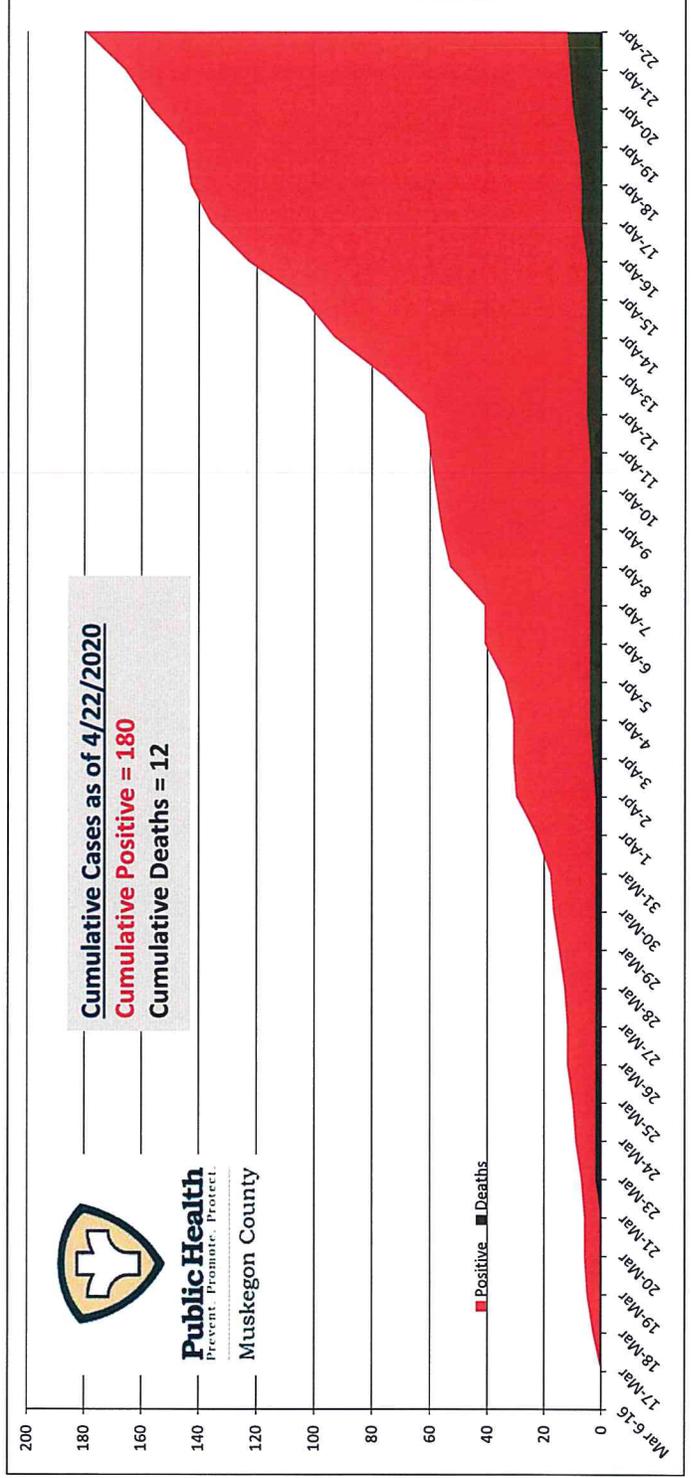
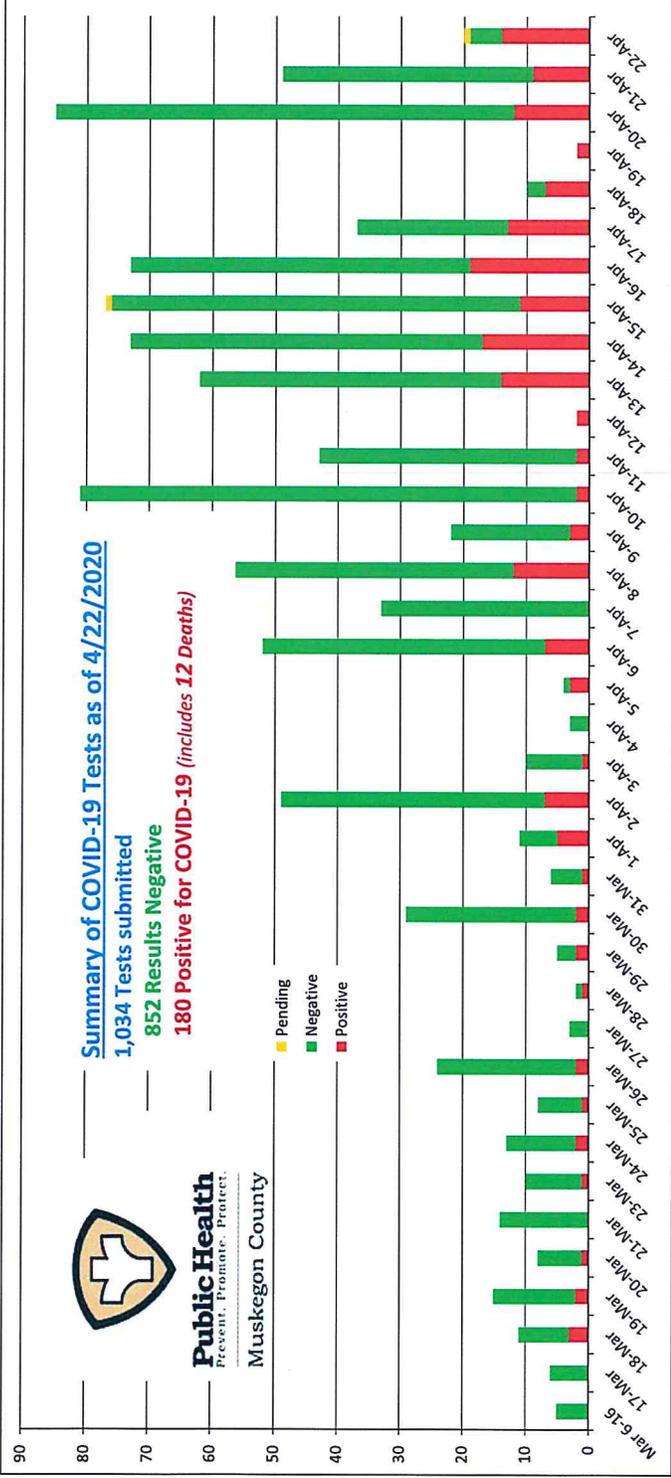
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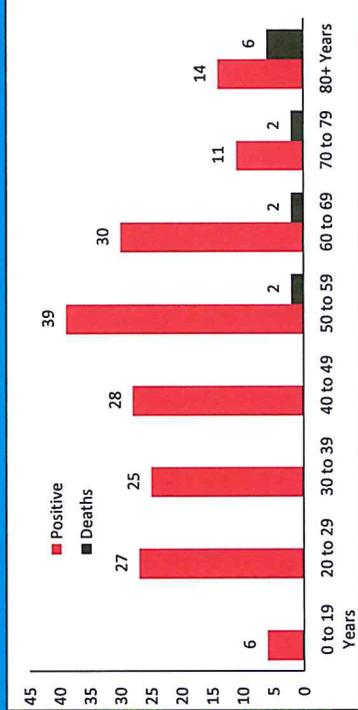
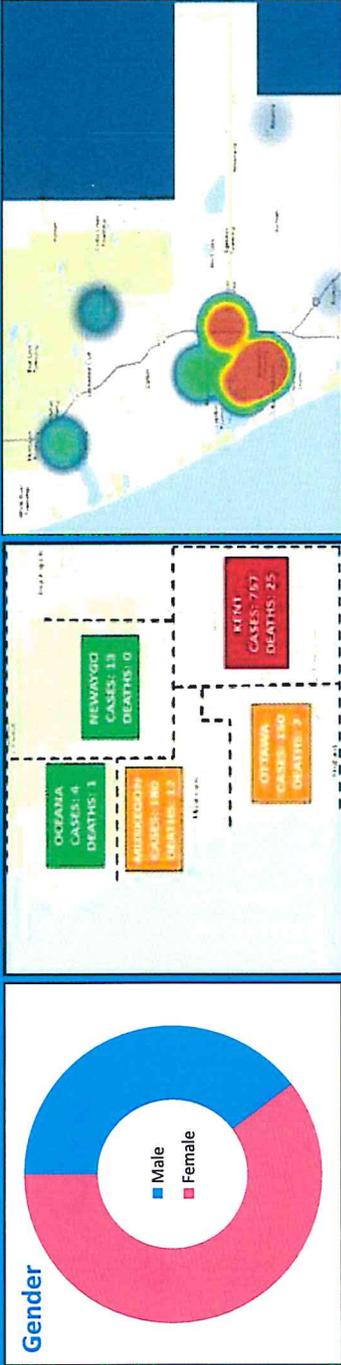
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**Trouble clicking?** Copy and paste this URL into your browser:

<http://blogs.mml.org/wp/inside208/2020/04/23/us-treasury-releases-guidance-on-eligible-uses-for-cares-act-funding/>



# County of Muskegon: Profile of Confirmed Covid-19 Cases as of 4/22/2020



**\*NOTE:** Identifying the location of confirmed positive cases could create a false sense of security when an area is not identified. As the number of confirmed positive tests increase every day, it becomes more evident that COVID-19 is spread throughout our Muskegon County community and every location should be considered a potential risk!

People of any age, even those who do not have any symptoms, could be a carrier of the virus. This is why the order from the Governor to Stay Home – Stay Safe – Save Lives (EO 2020-42) is so important! We do not know enough about this virus, but research tells us that social distancing and exceptional hygiene is the most effective approach to minimize exposure and break the chain of infection.

*Kathy Moore, Public Health Director*

Municipal Location*	Cases	Deaths
Dalton Township	8	4.4%
Egelston Township	2	1.1%
Fruitland Township	4	2.2%
Fruitport Charter Township	7	3.9%
Holton Township	1	0.6%
Laketon Township	3	1.7%
Muskegon, City	51	28.3%
Muskegon Charter Township	4	2.2%
Muskegon Heights, City	54	30.0%
Norton Shores, City	28	15.6%
Ravenna Township	1	0.6%
Roosevelt Park, City	2	1.1%
Whitehall Township	2	1.1%
Unknown	13	7.2%
<b>Total Muskegon County</b>	<b>180</b>	

Gender	#	%
Male	71	39.4%
Female	108	60.0%
Unknown	1	0.6%
Age	#	%
0 to 19 Years	6	3.3%
20 to 29	27	15.0%
30 to 39	25	13.9%
40 to 49	28	15.6%
50 to 59	39	21.7%
60 to 69	30	16.7%
70 to 79	11	6.1%
80+ Years	14	7.8%
<b>Age: 50.32 Average, 50 Median, 1 - 101 Range</b>		
Race	#	%
White	63	53.8%
Black	83	70.9%
American Indian	1	0.9%
Asian	1	0.9%
Unknown	32	27.4%

STATE OF MICHIGAN  
IN THE 14<sup>TH</sup> CIRCUIT COURT

\*\*\*\*\*

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff,

HON. TIMOTHY G. HICKS

v

File No. 20-1436-CZ

NICHOLAS DANIELS and LANDSCAPE  
SUPPLIES, LLC,  
Defendants.

\_\_\_\_\_/

Timothy M. Maat (P48691)  
Chief Assistant Prosecuting Attorney  
990 Terrace St., 5<sup>th</sup> Floor  
Muskegon, MI 49442  
231-724-6435

\_\_\_\_\_ /

Edward A. Newmyer (P42063)  
Attorney for Defendant  
1973 Eloise Dr.  
Muskegon, MI 49444  
231-206-7315

**OPINION GRANTING PLAINTIFF'S MOTION  
FOR A DECLARATORY JUDGMENT**

**INTRODUCTION**

Defendant conducts business at 3770 Airline Rd. in the city of Norton Shores in Muskegon County. The Prosecutor, on behalf of the People of the State of Michigan, has sued the defendants in this civil proceeding. They seek a ruling from the court.

This judge typically prepares one document which is both an opinion and an order. The court has not done so in in this case so that the ensuing order is (1) shorter and (2) more clearly understood by any interested parties.

The parties have narrowed the scope of this proceeding through negotiations and stipulations found in the file. It is to their credit that they have done this in a lawsuit which only started on Tuesday, April 14, but was presented for resolution within 3 days, on Friday, April 17. The court stresses that, in this lawsuit, any criminal sanctions are not an issue.

The court conducted a hearing, via the Zoom technology, on April 17. This order supersedes any other Cease and Desist orders or guidance from state authorities.

### FACTS

The court does not disturb the parties' stipulations of fact.

### ANALYSIS AND DECISION

The court is aware that this lawsuit presents important questions about the Governor's Executive orders, issued during these extraordinary times created by the COVID-19 emergency. Nonetheless, the scope of this order is limited to the parties in this lawsuit. As noted above, any criminal sanctions or other financial ramifications are not presented in this litigation.

The parties have distilled the legal issues to three, creating a framework for the issues to be resolved. However, providing the comprehensive guidance the prosecutor seeks, one which would ostensibly establish some rules for similar businesses, requires greater analysis.

#### Executive Order 42

Executive Order 42 ("EO 42") took effect on April 9 at 11:59 pm and rescinded EO 21. It is lengthy and contains numerous definitions, but its first numbered paragraph says that it "must be construed broadly to prohibit in-person work that is not necessary to sustain or protect life." The Governor's office also prepared a list of frequently asked questions, with answers to those.

That document says this about landscape businesses:

**Q: May landscaping, lawncare, tree service, irrigation and related outdoor maintenance companies operate under this order? (Bold in original)**

A. In nearly all cases, no. A business cannot designate its workers to perform these services unless the service is necessary to maintain the safety, sanitation and essential operations of a residence. This is a narrow exception that only permits in-person work that is strictly necessary to address a circumstance that **immediately and genuinely impairs the habitability of a home during the emergency.** (This judge has added this bold.)

The April 14 letter from the attorney general and the prosecutor to the defendants also cites this language.

Defendant and his company are clearly in the landscape business, so this order applies to them. The court concludes that delivery of materials to customers is proscribed by EO 42. But some additional issues merit discussion.

#### The Big Box Stores Do It

There is no disagreement that one can secure the delivery of mulch from other types of businesses. It no doubt seems unfair. Placed into its legal context, this raises a fundamental issue of Equal Protection of the laws.

Unfortunately, this record does not allow the court to properly address this issue. Governments can treat groups differently if they can establish a legal basis for such. For example, some municipalities have different rules for owner-occupied homes versus those owned by landlords. The Governor might be treating these other businesses differently because they have other departments and provide products like food and equipment necessary for vital home repairs or even family health and safety.

The legal basis, the facts necessary to support that treatment, and the type of scrutiny which courts apply to those decisions are undeveloped in this record. This is not necessarily anyone's fault because there is some urgency to entering this decision. It may, in fact, already be in the record and was overlooked here, or the Governor's office may want to consider the issue at some point. But this judge cannot resolve Equal Protection issues here, now.

Guidance from the Michigan Department of Environment, Great Lakes and Energy  
("EGLE")

Landscape Supply is on the "official" EGLE list of composting facilities. Defendants submit two bulletins from EGLE which arguably support their position and appear, to some extent, to conflict with the Governor's order. The one sent on March 26 recognizes that waste and materials management activities are essential and necessary activities. The other one speaks to yard waste handling. Defendant also submits documents from a trade group attesting to the importance of mulching and another, unattributed, about hazards presented by improper or careless mulching.

The court denies defendant relief on this argument primarily because the agency guidance cannot overrule the Governor's order, as it is explained in the questions and answers. Further, composting and delivery of materials might be related but are different activities. The court appreciates but is not persuaded by the other materials.

Cyber and Infrastructure Security Agency ("CISA") Guidance

Defendant's exhibit F is a state document adopting a list of critical infrastructure workers from that prepared by CISA. The CISA memorandum was submitted separately with defendant's briefing materials, and is also cited in paragraph 8 of the Governor's order. That citation, in particular, incorporates it into her order and gives it greater weight than the "stand-alone" EGLE guidance.

It seems a bit incongruous to see a section devoted to "Food and Agriculture" in a publication from an agency with a name that starts with "Cybersecurity," but there it is. "Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products" are considered critical infrastructure workers.

The court denies relief on this basis, since it also runs counter to the Governor's order and the explanation. Yes, some of defendants' products emanate from wood, but it also supplies stones and other types of landscape supplies, and its primary business does not involve the removal and cutting of trees or paper production.

The Parties' Three Questions:

The court started with the parties' three questions:

1. Whether the sale of wood chips to the consumer is part of the necessary and essential waste and waste management activity in the State of Michigan, i.e., necessary and essential...

**The court concludes that it is not. There remains that very limited exception defined above and noted in the accompanying order.**

2. Whether the sale of wood chips to the consumer is a critical infrastructure job/worker classified by CISA as the sale and distribution of a forest product?

**The court concludes that it is not. The CISA guidance says that workers who "support the manufacture and distribution" of forest products are such functions, not those who sell them to customers.**

3. If such activities are essential and necessary, does the Executive Order require special conditions in how these functions are to be performed?

**Given the two answers above, the court need not answer this question.**

**CONCLUSION**

The court stresses that this opinion is not about the *wisdom* of the order. That topic is left for other discussion in other forums. This opinion is also admittedly modest because the parties' work has essentially narrowed it to one particular activity. However, the accompanying order includes language based both upon the conclusions in this order and the parties' agreement about other activities, so as to gather as much certainty as possible in one place.

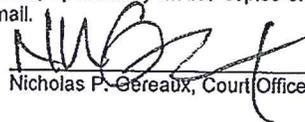
This is probably the first of many cases which will be presented as our community deals with the COVID-19 emergency and its effects on our lives. The issue resolved here relates to the practical applications of the Governor's order to these particular facts.

Date: April 17, 2020

  
\_\_\_\_\_  
Timothy G. Hicks, P35198  
Circuit Judge

CERTIFICATE OF MAILING

I hereby certify that on the 17 day of April, 2020, I personally mailed copies of this order to the parties above named at their respective addresses, by ordinary mail and electronic mail.

  
\_\_\_\_\_  
Nicholas P. Gerecht, Court Officer, 14<sup>th</sup> Circuit Court

STATE OF MICHIGAN  
IN THE 14<sup>TH</sup> CIRCUIT COURT

\* \* \* \* \*

PEOPLE OF THE STATE OF MICHIGAN,  
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Muskegon, MI 49442  
\_\_\_\_\_

Edward A. Newmyer (P42063)  
Attorney for Defendant  
1973 Eloise Dr.  
Muskegon, MI 49444

ORDER GRANTING PLAINTIFF'S MOTION  
FOR A DECLARATORY JUDGMENT

The court has received briefing, heard oral argument, and has entered its written opinion in this case. This order follows.

As stipulated to by the parties, defendant is deemed essential during the COVID-19 State of Emergency for the purpose of operating a compost facility and has been designated as an authorized compost site. Accordingly, the following non-essential operations by defendant **must cease**:

- Routine landscaping, tree service, irrigation, and other related outdoor maintenance operations.
- Delivery of materials to customers.
- "Curbside Pickup" of materials from the defendant's location by customers.

The narrow exception to this order permits delivery of material and in-person work that is strictly necessary to address a circumstance that immediately and genuinely impairs the habitability of a home during the emergency.

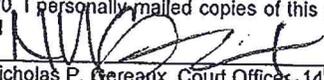
**IT IS SO ORDERED.**

Date: April 17, 2020

  
\_\_\_\_\_  
Timothy G. Hicks, P35198  
Circuit Judge

CERTIFICATE OF MAILING

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Nicholas P. Gereaux, Court Officer, 14<sup>th</sup> Circuit Court

# Norton Shores Employee Newsletter

April 2020

*"The pessimist sees difficulty in every opportunity. The optimist sees opportunity in every difficulty."*

*-Winston Churchill*

## May 5, 2020 Special Election

In response to Governor Whitmer's Executive Order 2020-27 and in an effort to keep election workers, voters and the community safe and limit the spread of COVID-19 the May 5, 2020 Special Election is being conducted by absentee ballot only. All registered voters within jurisdictions holding elections have received an application from the state for an absentee ballot along with a postage paid return envelope. Ballots, along with postage paid return envelopes, will be sent to voters who return their applications.

The City of Norton Shores has a proposed charter amendment for the renewal of the Public Safety Millage which was originally passed by voters in 2011. A renewal of this millage will allow City Council to levy up to 2 mills for an additional ten years starting in 2021 and ending in 2030. We encourage employees to share information about the millage renewal via discussions with friends, family and the public and/or on social media.



## Upcoming Retirement



After nearly 21 years as the Public Works Director, Jerry Bartoszek will begin his well deserved retirement at the end of May! Jerry will be greatly missed by everyone, but we wish him well in this next chapter!

Please watch for details regarding a retirement party in the near future!



## Congratulations!

## Workplace Changes during COVID-19

As you are aware, in response to the Governor's Executive Order to "Stay Home, Stay Safe" we have implemented operational changes in an effort to reduce risk associated with the COVID-19 virus for city employees and the general public. At this time the following changes are in effect until Friday, May 1:

- \* City offices closed during this period. Staff is working and providing services to the community using swing shifts, on-call and work from home measures.
- \* Work out room has been closed to employee family members & retirees. **Only active employees can use it at this time.**
- \* City Hall, Police Department and Public Works will be sanitized weekly by a commercial firm.
- \* Employees must complete a self-monitoring questionnaire at the start of each work shift.

As the situation changes we will be sure to let everyone know! Please continue to practice social distancing and good hygiene!



## Spring is Here!



Although Spring has not started off quite like any of us imagined, there are still plenty of things we can get out and do now that the weather is getting nice! Social distancing does not mean that you have to be cooped up inside for days or weeks. Here is a short list of just a few of the many activities that can be done while practicing safe social distancing;

- ◇ Walking, Running or Hiking
- ◇ Yard work
- ◇ House Projects
- ◇ Kayaking/Canoeing
- ◇ Quality time with immediate family
- ◇ Catching a sunset at the beach

We all hope that sooner rather than later life goes back to "normal", but until that time take some time to slow down and appreciate the little things. Stay safe and healthy!

# NS Employee Newsletter

## 2020 Census

If you have not done so already, head over to [2020census.gov](http://2020census.gov) to fill out the census, it only takes a few minutes. We cannot stress enough how important it is for communities to have an accurate count of its citizens.

Please do your part for your community by filling out the 2020 census today!



## New Hires

2020 started out with a couple new faces whom we mentioned previously and one more recent hire. They are:



Laura Mattson, PT  
Clerical Water/Sewer



Laurel Sass, PT  
Clerical Public Works  
Garage



Andrew Lifer, Police  
Officer

## Job Postings

- Director of Public Works  
- Deadline for application submission—4/24/20

Applications can be found at City Hall or [nortonshores.org](http://nortonshores.org)

**Be on the lookout!**

New Employee Directory coming soon.

Weight Loss Challenge restarting in the near future.

Every school year second grade students from different Mona Shores elementary schools come for a tour of City Hall, the Police Department and the Fire Department. The teachers use the tours as a way to tie together everything the students have learned about government! In December we had the honor of giving tours to Lincoln Park second graders and then in February Churchill Elementary students came in!



## City Word Search

A M I O G Y O N L X Z  
R L U X B W C O V C K  
O M H S Z E X N M E I  
S S O Z K D Q O G Y L  
S D I S B E H R U K A  
P N E P W V G T J E K  
A H O M E B E O D G E  
R D J I V E S N N L H  
K P T C L T M S X T A  
L B E H Z C D H V X R  
J M R I Q F L O N P B  
H L P G H X V R W M O  
M O N A L A K E R D R  
F T D N I K W S F L Y  
X H O F F M A S T E R

- ROSS PARK
- MUSKEGON
- NORTON SHORES
- MONA LAKE
- LAKE HARBOR
- MICHIGAN
- HOME
- HOFFMASTER

## CASUAL FOR A CAUSE

Throughout the year money is raised by employees who are able to participate in casual Fridays. Each Friday that they wear jeans they donate a dollar to the casual for a cause fund. The committee then meets to decide where the money should be donated or how it can be used to benefit the community!

At this time we are looking for suggestions on where the money may be the most beneficial during this trying time. Please e-mail suggestions to [clerk@nortonshores.org](mailto:clerk@nortonshores.org) by Friday, May 1. The committee will look at suggestions and then make a decision where to donate. Also, if you are unable to participate in casual Fridays but would like to donate please make donations to City Treasurer, Tina Ericksen—every little bit helps!



### QUESTIONS ABOUT YOUR HEALTH INSURANCE?

**Medical  
Dental  
Vision**

**Let our 44 North representative  
Kristen Mihelsic help!  
855-306-1099 ext. 1025**

## CONTRIBUTE TO THE NEWSLETTER

This newsletter is meant as a source of information between departments for all employees of the City of Norton Shores. It is our hope that everyone will read and enjoy this bit of news about fellow employees and stay better informed about what is happening city-wide.

Submissions of "Happy Events", department projects, local activities, contests, items for sale/purchase and just general information of what's happening in the workplace should be emailed to [clerk@nortonshores.org](mailto:clerk@nortonshores.org) to be included in the next issue.

City of Norton Shores:

Thank you for everything during this pandemic

We appreciate you being an essential worker  
and continuing your service

- The Houseman family ♥

~H~

Thank you & safe  
healthy as you continue  
to serve.



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2229 Leif Ave  
Norton Shores, MI 49441 4473



City of Norton Shores Clerks  
4814 Henry St. Team  
Norton Shores MI 49441

